

STATE OF TEXAS     )  
                              ) ss:  
COUNTY OF DALLAS   )

**AFFIDAVIT OF PETER P. GUGGINA**

Peter P. Guggina, being duly sworn and under oath, deposes and states as follows:

1. I am employed by MCI Telecommunications Corporation (MCI) as the Director of Technical Standards Management. My office address is 2400 N. Glenville Drive, Richardson, Texas 75082. In this capacity, I am responsible for managing a staff that plans, coordinates and executes MCI's participation in the industry forums and standards process, in which industry representatives attempt to formulate uniform interconnection technical standards and requirements. My position provides a daily view of the status and events that take place in these arenas. In addition to participating directly in this process and monitoring other MCI participants' progress, I am in contact with other industry participants in an attempt to resolve issues and to make the process more effective.

2. I am also my company's representative to the Board of Directors of the Alliance for Telecommunications Industry Solutions (ATIS), formerly the Exchange Carrier Standards Association (ECSA), which sponsors many telecommunications standards setting bodies and industry forums, including the Network Industry Interoperability Forum (NIIF), which replaced the Information Industry Liaison Committee (IILC), discussed

below. In addition, I am also MCI's representative to the American National Standards Institute (ANSI). I have also served as Vice-Chairman, and, subsequently, as the Chairman, of the Carrier Liaison Committee (CLC), which provides oversight management of the ATIS/CLC forums. Further, I am Chairman of the Interexchange Carriers Industry Committee (ICIC), an industry group that reviews technical subject matters associated with exchange access services. Chairing the ICIC provides me additional exposure to a cross-section of industry activities related to the forum and standards process. I also serve as a voting member of the North American Numbering Council (NANC), a Federal Advisory Committee to the FCC on numbering issues. My involvement with these industry activities began in 1984, and I have over 25 years of telecommunications operation, engineering, and network planning experience.

3. I am submitting this affidavit in connection with the Computer III Further Remand Proceedings; Bell Operating Company Provision of Enhanced Services, CC Docket No. 95-20, and the 1998 Biennial Regulatory Review of Computer III and ONA Safeguards and Requirements, CC Docket No. 98-10, in response to the Commission's questions related to the effectiveness of Computer III and Open Network Architecture (ONA) rules in the provision of unbundled services to information service providers (ISPs), as well as in response to questions related to the NIIF performance in facilitating ISP ONA requests.

4. This affidavit follows up on previous affidavits submitted in April 1996 by me and three of my colleagues in CC Docket No. 95-20, which detailed the Bell Operating Companies' (BOCs') and other incumbent local exchange carriers' (ILECs') obstructionism of the IILC standards process, to the detriment of ONA development and competition.<sup>1</sup> As detailed in those affidavits, a great deal of unbundling-related industry forums and standards activities took place during the IILC era, but without any real agreements leading to actual unbundling.

5. During the past year, ONA-related activities have nearly come to a standstill in the ATIS-sponsored NIIF. ONA activities were entrusted to ATIS-sponsored industry fora by the FCC in Computer III. Progress on resolving network unbundling issues at the NIIF has not advanced since the NIIF took over the IILC unbundling issues in January 1997. NIIF could have produced meaningful industry agreements and requirements by now, but the BOCs have chosen to do more talking about the issues than producing implementable solutions. Hence, they have not carried out their ONA responsibilities.

6. As of today, the NIIF has made very little progress in addressing and resolving issues growing out of the original IILC

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<sup>1</sup> The 1996 affidavits, in turn, responded to BOC attempts to rebut my previous affidavit on this subject, filed in support of MCI's Comments in CC Docket No. 95-20 in April 1995.

Issue 026 (Long Term Unbundling and Network Evolution), which was begun in July 1991 in response to an FCC directive. IILC Issue 026 could have paved the way for a complete unbundling of the physical and logical interconnection elements of the network, had the BOCs and GTE followed through in good faith. Despite the fact that the IILC reached consensus on Issue 026 on April 19, 1995, and closed out that issue, the implementation by the BOCs and GTE of the physical and logical interconnections specified in the resolution document remain elusive. Although the IILC closed out Issue 026, closing an issue in this process does not mean that anything has been accomplished that actually brings about greater unbundling. Instead, it simply means that a stack of high-level conceptual papers, rather than implementable solutions, has been produced.

7. In some instances, technical specifications and requirements are needed. This work fits into the mission and scope of the NIIF, but the BOCs have chosen to produce high level theoretical documents, which lack technical detail. At this time, for example, NIIF Issue #006 (AIN/IN Trigger Usage in a Multi-Provider Environment) -- which is an outgrowth of IILC Issue 026 -- is the only active unbundling issue at the NIIF's Network Interconnection Architecture Committee. The unfortunate reality is that we have been working this subject at both the IILC and the NIIF for a combined time span of about seven years, and we still have not agreed on an implementable solution for

unbundling the Advanced Intelligent Network (AIN).

8. Despite the failure of this process, the BOCs still take credit for trumped-up accomplishments in this area. Bell Atlantic stated in its 1996 ONA Plan Amendments that

In the past year, the IILC has reached consensus on several additional issues. These are Issue 026 ... ; Issue 038, Call Forwarding Control Capabilities for ESPs; Issue 045, Series Circuits on Selected Telemessaging Subscribers; and Issue 047, Call Forward - Transfer Back.<sup>2</sup>

Unfortunately, reaching "consensus" on these issues does not mean that anything of substance has been created that can be implemented, nor does it mean that the the BOCs and other ILECs have agreed to implement any aspect of the agreements reached in these issues. As of yet, the BOCs have not made these unbundled network elements available.

9. Thus, the IILC never produced anything of value to ISPs. The net result is that the ISP community had largely stopped attending IILC meetings by the time it was replaced by the NIIF, and ISPs have effectively given up their pursuit of ONA at the ATIS-sponsored committees altogether. The record also shows that several ISPs have filed comments in various dockets at the Commission regarding the lack of progress on ONA issues at

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<sup>2</sup> Amendments to Bell Atlantic's ONA Plan at A-10, Filing and Overview of Open Network Architecture Plans, CC Docket No. 88-2, Phase I (April 15, 1996).

the IILC.<sup>3</sup> Complaints to the FCC about the lack of progress at both the IILC and NIIF on access to open AIN capabilities have come from several ISPs. One of those, Low Tech Designs, Inc., filed seven ex parte letters with the FCC during 1996 and 1997.<sup>4</sup> Given ISPs' disappointment and frustration with the 120-day request process, the number of ISPs using that process has been almost negligible. In cases where requests were made to the BOCs, the network capabilities were not in place to deliver the IILC agreed-upon ONA basic services.<sup>5</sup> Even when agreement was reached at the IILC, ISPs found that their local BOC points of contact were not informed of what their companies supported at the IILC. Unfortunately, the BOCs used the IILC to buy time without actually implementing the very unbundled network elements that they were talking about at the IILC.

10. In its May 22, 1996 ex parte letter in CC Docket No. 95-20, Bell Atlantic accused MCI of attempting to discredit the BOCs by stating that they dominate the IILC and other technical

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<sup>3</sup> See, e.g., Written Ex-Parte Comments of James M. Tennant, Intelligent Networks, CC Docket No. 91-346 (Feb. 16, 1996)(criticism by Low Tech Designs, Inc. of ILEC delays in providing access to open AIN capabilities); ex parte letter from Jonathan Jacob Nadler to William F. Caton, FCC, with attachment, CC Docket No. 95-20 (Feb. 28, 1997)(presentation on behalf of EDS, MCI, IBM and ITAA citing failure of ONA).

<sup>4</sup> See, e.g., Low Tech Comments cited in n. 3, supra.

<sup>5</sup> The Commission should continue to enforce the 120-day process and have the semi-annual BOC and GTE reports include the number of ISP requests and the requested ONA services.

standards bodies. Bell Atlantic denied that the BOCs dominate the IILC, pointing out that, sometimes, MCI sends more people to meetings than Bell Atlantic. MCI, however, rarely if ever sent more than one person to the IILC at one time. Furthermore, in my affidavit and in the affidavits submitted by my colleagues in CC Docket No. 95-20, we were referring to the collective dominance of the then seven BOCs supported by Bellcore. A quick review of the ATIS meeting records will verify my statement as being factually correct. The record speaks for itself. Even when the individual BOCs do not have numerical superiority at a particular meeting, they always have more than enough to paralyze the forum or committee into inaction, which is just as useful for the BOCs. It is now 1998, and the BOCs and GTE still do not offer unbundled access to their AIN features.

11. The cooperation of the BOCs and GTE, not the location or title of an industry forum, is the fundamental prerequisite to network unbundling. These ILECs have used both the IILC and the NIIF to give the appearance, but not the reality, of advancing ONA and ISP needs. The BOCs and GTE report that they are diligently working in the forums on ONA issues, but they really are only giving the appearance of making progress on major issues. Since 1991, when the IILC began work on Issue 026, MCI has taken part in the deliberations of all IILC task groups and in the NIIF committees that dealt with the network unbundling issues. Recently, MCI has made proposals on NIIF Issue 006,

discussed above, that could be implemented using the existing SS7 signaling network infrastructure. However, the BOCs and GTE have not agreed and have not offered an alternative that could be implemented in the near term.

12. The only active unbundling issue (NIIF Issue 006) is making very little progress, mainly due to the BOCs' lack of willingness to unbundle their networks to competition. Very few contributions are being submitted on this topic, and protracted discussions ensue without any concrete agreements being reached. Other ONA issues related to the AIN proceeding in CC Docket No. 91-346 have been Tabled (on hold) or withdrawn because the ISP issue originator has given up hope that the NIIF could resolve the issue and is awaiting the Commission ruling in CC Docket No. 91-346, or there have been no contributions to work the issue. Several issues fall in this category, e.g., NIIF Issue 004 (IILC 044H) - AIN Access by Non-LEC Resource Element; NIIF Issue 012 (IILC 056PH) - Mediation Functions for Create a Call; NIIF Issue 007 (IILC 050) - AIN/IN Trigger Provisioning in a Multi-Provider Environment; NIIF Issue 008 (IILC 051) - Guideline for Access to Operations, Administration, Maintenance & Provisioning; and NIIF Issue 010 (IILC 053) - Guideline for Mediation Among Multiple Service and Network Providers.

13. Absent specific Commission directive, the BOCs and GTE will continue to preserve and expand their monopoly capabilities.



These ILECs will maintain their defense of their monopolies regardless of which forum holds the meeting. The Commission should be more directly involved and order a date certain for implementation of unbundled network elements. It should be kept in mind that Toll Free 800 service portability would not have happened on time without the Commission setting a date certain and a tight schedule for SS7 interconnection. Also, expanding Toll Free service to the 888 service access code (SAC) was only made possible with Commission oversight. Local Number Portability (LNP) is another example of an area that requires strong Commission involvement. Just like these areas, unbundling also needs firm regulatory direction.

#### CONCLUSION

14. The BOCs failed in the past to rebut MCI's demonstration in previous filings that they dominate the industry standards and fora processes. There are many others in the industry that are becoming aware of BOC dominance of industry standards and forum processes, as well as the resulting anti-competitive effects. The BOCs and other ILECs have a very well-organized cartel for the purpose of influencing industry forum and standardization processes. They do not implement the solutions and ONA services that they agree to in industry and standards forums.

15. Because of the BOCs' sabotage of the industry

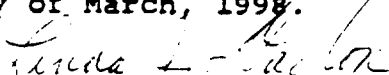
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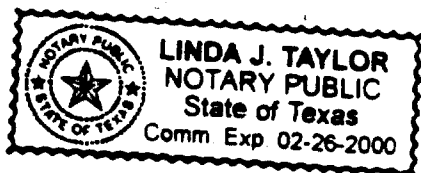
standards processes, the Commission cannot realistically expect industry fora to develop effective ONA or anti-discrimination safeguards. Without such safeguards, structural separation should not be eliminated. Structural separation for BOC provision of information services is in the public interest and promotes fair competition. The forum and standards processes will also be more likely to develop effective nonstructural safeguards if the BOCs are structurally separated from their information service operations, which will put those operations and ISPs on a more even footing.

Further Affiant saith not.

  
Peter P. Guggina

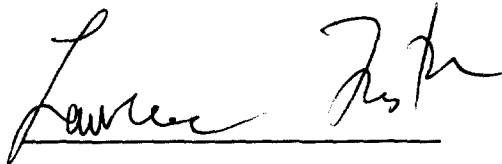
Subscribed and sworn to before me  
this 26<sup>th</sup> day of March, 1998.





## **STATEMENT OF VERIFICATION**

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on July 21, 1998.

A handwritten signature in cursive script, appearing to read "Lawrence Fenster", written over a horizontal line.

Lawrence Fenster  
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## **Service List**

I, Barbara Nowlin, do hereby certify that a copy of the foregoing **Comments** has been sent by United States first class mail, postage prepaid, hand delivery, to the following parties on this 21st day of July, 1998.

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Barbara Nowlin  
July 21, 1998